

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

Plaintiff

v

CITY OF ERIE, PENNSYLVANIA

Defendant

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: C.A. NO. 04 – 04 ERIE
:
: JUDGE McLAUGHLIN
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DEFENDANT’S DETAILED OBJECTIONS TO RELIEF AWARDS LIST

AND NOW, this 20th day of October, 2006, comes Defendant, by and through the Office of City of Erie Solicitor, and states the following in objection to the Individual Relief Awards List submitted by the Plaintiff.

I. OBJECTIONS TO PRIORITY HIRE RELIEF:

Name:	Basis of Objection
*Karuba, Audrey	No evidence of Civil Service passage or equivalent
Cooper, Saprina	Failed Civil Service test 2002
Foltyn, Amy	No evidence of Civil Service passage or equivalent
Hopkins, Nina Harris	No evidence of Civil Service passage or equivalent
*Karuba-Cooley, Audrey	No evidence of Civil Service passage or equivalent
Meyer, Natalie	No evidence of Civil Service passage or equivalent
Osterberg, Denise	Failed Civil Service test 2002
Roberts, Tabitha	Failed Civil Service test 2002
Santiago, Mary Ann	No evidence of Civil Service passage or equivalent
Sauro, Christine	No evidence of Civil Service passage or equivalent
Thompson, Zabrina	Failed Civil Service test 2002
Villa, Maria (Lococo)	No evidence of Civil Service passage or equivalent

Information and documentation regarding these objections:

--2002 Civil Service test results for all passing and failing applicants—attached to City’s First Set of Objections.

--Testimony of Constance Cook, Human Resources Manager and Secretary of the Civil Service Board, and Daniel Tempestini, Board President, regarding the nature,

scope and sources of each Civil Service test given for police officers.

* These appear to be the same person listed twice.

Defendant does not object to placement of the five women who passed the 2002 Civil Service test on the Priority Hiring list, but notes that one of them, Joanne Harris, did not request Priority Hiring relief. Heather Dunkle apparently had police experience in Edinboro, Lawrence Park and Girard but has not applied for Priority Hire.

II. OBJECTIONS TO MONETARY RELIEF

Name:	Amount	Basis of Objection
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All those objected for Priority Hire, all of whom are proposed for Monetary Relief of \$3,288.00 each, for the same reasons listed above. In addition, the following:

Flak-Boyijian, Dawn	\$3,288.00	No Civil Service pass or equivalent.
Bradley, Nicole	3,288.00	No Civil Service pass or equivalent
Burton, Linda (Mills)	3,288.00	No Civil Service pass or equivalent
Devlin, Heather	3,288.00	No Civ. Srv. high pass or equivalent
Dudics, Julia	3,288.00	No Civ. Srv. high pass or equivalent
Dunkle, Heather	3,288.00	No Civ. Srv. high pass or equivalent, But was MPOETC certified 1999
Everts, Darlene (Weislogel)	3,288.00	No Civ. Srv. high pass or equivalent
Frey, Cheryl	22,035.00	Would not have been hired based on Additional eligible PAT-failing Candidates ranked ahead on Civil Service list in 2002
Gamble, Luvennise	3,288.00	No Civ. Srv. high pass or equivalent
Geeting, Tammy (Santey)	3,288.00	No Civ. Srv. high pass or equivalent
Gibbs, Fatima	3,288.00	No Civ. Srv. high pass or equivalent; Declined invitation to apply and take 2002 test.
Harris, Joanne	3,288.00	Ranked far below anyone hired from 2002 Civil Service test
Hayes, Lisa	3,288.00	No Civ. Srv. high pass or equivalent
Jones, Barbara	3,288.00	No Civ. Srv. high pass or equivalent
Koenig, Venus	3,288.00	No Civ. Srv. high pass or equivalent
Linder, Stephanie	3,288.00	No Civ. Srv. high pass or equivalent
Lolley, Corrina	3,288.00	No Civ. Srv. high pass or equivalent
Machalinski, Marlo	3,288.00	No Civ. Srv. high pass or equivalent
Marshall, Kathy	3,288.00	No Civ. Srv. high pass or equivalent
Morgan, Jessica	3,288.00	No Civ. Srv. high pass or equivalent
Moubarak, Jennifer	3,288.00	No Civ. Srv. high pass or equivalent

O'Laughlin, Teresa	3,288.00	No Civ. Srv. high pass or equivalent
Peterson, Michele(Agnello)	3,288.00	No Civ. Srv. high pass or equivalent
Pollock, Stacy	3,288.00	No Civ. Srv. high pass or equivalent
Rodgers, Sue Yong	3,288.00	Ranked far below anyone hired from 2002 Civil Service test
Runstedler, Jennifer	3,288.00	No Civ. Srv. high pass or equivalent
Schmeisser, Mary	3,288.00	Ranked 10 places below last hired From 2002 Civil Service list
Sidun-Lego, Cheryl	3,288.00	Ranked 12 places below last hired From 2002 Civil Service list
Smith, Heidi	3,288.00	No Civ. Srv. high pass or equivalent
Stover, Carla	3,288.00	No Civ. Srv. high pass or equivalent
Weismiller, Kristin (Lorei)	3,288.00	No Civ. Srv. high pass or equivalent
Wolcott, Linda (Peters)	3,288.00	No Civ. Srv. high pass or equivalent

Information and documentation regarding these objections:

The same as for the Priority Hire objections, together with the Master Police Roster prepared in January 2006 provided to Plaintiff at the January 6, 2006 conference with Judge McLaughlin. This shows the seniority of Erie officers in descending order, as well as identifying the officers put on budgetary layoff in 2005 and early 2006.

Regarding Cheryl Frey—while her Civil Service ranking was above the final 6 officers (2 with Vets Preference) shown on the Master Police Roster, there were 19 men and 2 women ranked above her on the Civil Service list who failed or no-showed for the PAT in 2002. One other male ranked below her (with Vets Preference) was hired but discharged during his probationary period. Discounting the 10 male and 1 female no-shows leaves 9 men-- 8 with Veterans' Preference, and 1 woman ranked ahead of her. Adding these candidates to the potential hires exceeds the number of persons actually hired from the 2002 list before Ms Frey would have been offered employment. The 2 Veterans hired with scores below her, furthermore, could have been hired ahead of her under the Pennsylvania Veterans Preference law, 51 P.S. 7104, which permits hiring of passing veteran candidates who rank below non-veterans. She is eligible for the Priority Hire list because of her passing score, but her PAT failure demonstrably did not prevent her hiring, and she should not receive back pay.

It should also be noted that, in the summer of 2004, Plaintiff sent letters and

subpoenas to several law enforcement agencies and training programs in Pennsylvania, New York and Ohio, requesting any evidence that the individuals who failed the PAT, male or female, in 1996, 1998, 2000 and 2002 had been certified as law enforcement officers elsewhere. Plaintiff has successfully used this method to dispute the appropriateness of a disparate employment test which rejected persons who went on to successful work elsewhere in the same field-- *United States v. State of Delaware* 2004 WL 609331. Copies of responses received by Plaintiff were supplied to Defendant, and Plaintiff has not yet asserted that any of these applicants establish equivalent Erie police qualifications from these results. Specific responses from those agencies included:

1. Ohio State Highway Patrol—none of the applicants found as of August 17, 2004.
2. Pennsylvania State Police—one 1998 female PAT-failed, Susan Edelmann, who is not among those submitted for relief, as of August 2, 2004, is or was a sworn member of PSP, as were 4 males, from 1996 and 2000.
3. New York State Division of Criminal Justice Services—4 males appear on the police or peace officer registry as of August 9, 2004.
4. Ohio Attorney General—several similar male names; a “Cheryl Frey” with a different Social Security number, 6 “Barbara Jones” or similar name, and a “Debra Fuller” show some types of criminal justice training, as of July 28, 2004.
5. Pennsylvania Municipal Police Officers’ Training Commission—as of August 10, 2004, several males and Heather Dunkle, certified May 28, 1999; and Carey McConahy (non-applicant for relief), certified March 3, 2001.

By letter of October 18, 2006, counsel for Plaintiff states that Plaintiff has no “additional relevant information regarding the claimants the United States has determined should receive relief under the Decree.”

Defendant, therefore, presents and maintains its objections to the Relief Awards list; incorporating the arguments raised in its Brief in Support of Motion to Compel Production of Documents, and awaits any further information from Plaintiff as to the primary qualifications of any proposed Individual Relief applicant to justify back pay or

additional Priority Hires. At this point, not one of the persons submitted for relief can assert that the PAT failure actually prevented her from being hired as an Erie police officer in the year of her failure; a finding which is necessary to any award of back pay.

Respectfully Submitted,

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